

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**ARTHUR VERNELL
THOMPSON,**

Plaintiff,

v.

**MIKE DEWINE (GOVERNOR),
et al.,**

Defendants.

Case No. 2:23-cv-3930

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Stephanie K. Bowman

ORDER

This matter is before the Court on the Order and Report and Recommendation issued by the Magistrate Judge on April 30, 2024. (Order and R&R, ECF No. 8.) Plaintiff is a prisoner in custody in Michigan, who is proceeding *in forma pauperis* and without counsel. (*Id.*) After conducting an initial screen of Plaintiff's Complaint, the Magistrate Judge recommended that the Court dismiss Plaintiff's Complaint in its entirety as time-barred, decline to order emergency relief, and warn Plaintiff that this case may be considered his third "strike" under the Prison Litigation Reform Act. (*Id.* PageID 184.)

Plaintiff then moved for an extension to file an objection to the Report and Recommendation. (ECF No. 9.) The Court granted Plaintiff's extension and ordered that he file an objection, if any, on or before May 28, 2024. Plaintiff was advised of his right to object to the Order and R&R, and of the consequences of failing to do so. (ECF No. 8, PageID 202–03.) Nonetheless, Plaintiff did not file a timely objection.

Once a magistrate judge issues a report and recommendation, the relevant statute provides:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by

rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). The failure to file written objections to a magistrate judge's report and recommendation waives a *de novo* determination by the district court of any issues addressed in the report and recommendation. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981).

Because Plaintiff did not file a timely objection, he waived a *de novo* review of the Order and R&R. The Court has reviewed the Order and R&R, agrees with the recommendations stated therein, and **ADOPTS** and **AFFIRMS** the Order and R&R. (ECF No. 8.) Plaintiff's Complaint is **DISMISSED** in its entirety as time-barred. The Court **DECLINES** to issue emergency injunctive relief and **WARNS** Plaintiff that this case may be considered a third "strike" under the PLRA. The Court also **CERTIFIES** that an appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3), and thus **DENIES** Plaintiff leave to appeal *in forma pauperis*.

The Clerk is **DIRECTED** to **ENTER JUDGMENT** and close this case.

IT IS SO ORDERED.

9/11/2024
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE